

NOV 06 2006

Atty Dkt. No.: 10990641-1
USSN: 09/359,527**REMARKS**

In view of the following remarks, the Examiner is requested to allow Claims 2-5, 8-14, 17, 49-52, and 55-57, the only claims under examination in this application.

Double Patenting

Claims 2-5, 8-14, 17, 49-52, and 55-57 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 and 25-34 of U.S. Patent No. 6,943, 036.

The Applicants note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection.¹ As such, while the Applicants firmly believe that this rejection fails to meet the requirements for Obviousness-Type Double Patenting set forth in MPEP § 804, a terminal disclaimer is filed to obviate the rejection.

In view of the enclosed Terminal Disclaimer over U.S. Patent No. 6,943, 036, this rejection may be withdrawn.

Claims 2-5, 8-14, 17, 49-52, and 55-57 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 and 25-34 of U.S. Patent No. 6,998,230.

The Applicants note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection.² As such, while the Applicants firmly believe that this

¹ *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

² *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer

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rejection fails to meet the requirements for Obviousness-Type Double Patenting set forth in MPEP § 804, a terminal disclaimer is filed to obviate the rejection.

In view of the enclosed Terminal Disclaimer over U.S. Patent No. 6,998,230, this rejection may be withdrawn.

Claims 2-5, 8-14, 17, 49-52, and 55-57 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 and 25-34 of U.S. Patent No. 6,939,673 in view of Baldeschwieler.

The Applicants note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection.³ As such, while the Applicants firmly believe that this rejection fails to meet the requirements for Obviousness-Type Double Patenting set forth in MPEP § 804, a terminal disclaimer is filed to obviate the rejection.

In view of the enclosed Terminal Disclaimer over U.S. Patent No. 6,939,673, this rejection may be withdrawn.

Claims 2-5, 8-14, 17, 49-52, and 55-57 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 and 25-34 of U.S. Patent No. 7,027,629 in view of Baldeschwieler.

The Applicants note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection.⁴ As such, while the Applicants firmly believe that this rejection fails to meet the requirements for Obviousness-Type Double Patenting set forth in MPEP § 804, a terminal disclaimer is filed to obviate the rejection.

simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

3Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

4 Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer

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In view of the enclosed Terminal Disclaimer over U.S. Patent No. 7,027,639,
this rejection may be withdrawn.

simply serves the statutory function of removing the rejection of double patenting, and raises
neither a presumption nor estoppel on the merits of the rejection."

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CENTRAL FAX CENTER****NOV 06 2006**Atty Dkt. No.: 10990641-1
USSN: 09/359,527**CONCLUSION**

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone Bret Field at (650) 833-7770.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078, order number 10990641-1.

Respectfully submitted,

Date: November 6, 2006By: Bret E. Field
Registration No. 37,620

encs:

- Terminal Disclaimer over U.S. Patent No. 6,943, 036
- Terminal Disclaimer over U.S. Patent No. 6,998,230
- Terminal Disclaimer over U.S. Patent No. 6,939,673
- Terminal Disclaimer over U.S. Patent No. 7,027,639

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